Montana Mental Health OMBUDSMAN'S Report • 2002

Bonnie Adee, Mental Health Ombudsman

These are critical times. State revenues are less than expected. Expenses for mental health services continue to rise due to increased utilization. More reductions and limitations in services are planned. State programs and employees are expected to do more with less. Individual cost sharing will increase and fewer people will receive help from the public mental health system. The Office of the Mental Health Ombudsman will continue to assist individuals who must navigate a more difficult mental health system, and will continue to make recommendations to mitigate the effects of these changes.

One Year Later

In our 2001 Annual Report, we made four recommendations for Montana's public mental health system. This year we will report on those recommendations twelve months later.

Recommendation #1: Increase access to mental health care for children

In October 2001, the Addictive and Mental Disorders Division reported an increase in the number of children seeking mental health services, primarily in Medicaid. Demand for out-of-home care also increased by 30%. Projected growth in Medicaid expenditures caused the division to increase cost sharing for Medicaid recipients, tighten utilization review criteria, and reduce or limit some services. Soon a new rule will eliminate access to outpatient therapy for children without a diagnosis of serious emotional disturbance (SED), except on a case-by-case basis. This fall Comprehensive School and Community Treatment (CSCT) will not be available in schools, although Day Treatment will remain.

Access to mental health care for children in the non-Medicaid program Mental Health Services Plan (MHSP) became more limited this year. Last year this group lost coverage for intensive case management. This summer, as part of the Governor's budget reductions, the MHSP services for CHIP recipients were eliminated. Moreover, state funding for several hundred CHIP slots was eliminated as well. CHIP has a limited array of mental health services for children. The remaining MHSP slots in a program called Kids Basic are full, and continued funding of that program is uncertain.

Many children in the Juvenile Justice System and the Child Protective System have less access to mental health care today due to reduced ability of those systems to purchase services not covered by Medicaid.

Overall, access to mental health care for children has decreased during the last twelve months.

Recommendation #2: Maintain a pharmacy benefit

In April, 2002 the Medicaid program increased cost sharing for medications to 5% with a $500 yearly cap. However, since then, the cost to consumers has been reduced to a per prescription co-pay not to exceed $25 a month. While this still represents an increased cost to the consumer, it is affordable for most recipients. The pharmacy benefit is considered an optional Medicaid service. So far, policy makers recognize that many people could not continue to purchase their medicine without the assistance of this benefit. The Mental Health Services Plan also still covers the cost of medication. Since the cost is significant, a pharmacy benefit will be debated during the next Legislative session.

The state maintained a pharmacy benefit for persons with serious mental illness.

Recommendation #3: Develop more community services with proven effectiveness

While the state has not been able to initiate any new community services this year, it has tried to maintain some of the ones it has already. The Assertive Community Treatment (ACT) program continues for 140 individuals in Helena and Billings. Therapeutic family care is still available to children covered by Medicaid. Unfortunately, state funding for drop-in centers and Comprehensive School and Community Treatment for school-aged children was eliminated.

The state recognizes the value of community services, but some have been eliminated.

Recommendation #4: Find more ways to divert persons with serious mental illness away from the criminal justice system

The Department of Corrections and counties have reduced funding for mental health services within correctional facilities. Planned initiatives to increase training and education for police, jail and correctional staff, as well as county attorneys and public defenders and judges were not implemented.

Due to lack of funds, the Department of Corrections will have less capacity. It must reduce its overall population by 500 inmates. This situation may force consideration of diversion programs for persons with mental illness during the next twelve months.

There has been no organized effort to divert persons with serious mental illness away from the criminal justice system.

Message FROM THE MENTAL HEALTH OMBUDSMAN

It has been three years since Montana terminated its contract for managed mental health care. The state operated system has gradually improved its processes, such as eligibility determination and claims payment, to the point where the Ombudsman Office receives few complaints or concerns about these. However, for the second year in a row, state spending for mental health services has exceeded its budget. In addition, state revenues are less than were anticipated when the state budget was developed. As a result, reductions in state spending are underway. The mental health system has already experienced significant changes, including increased co-payments for users, more limited eligibility for services, and reductions in the services covered. For some individuals, the safety net will be gone.

In this environment, it's tempting to focus on just keeping the services that remain. The vision statement endorsed by the Mental Health Oversight Advisory Council seems like an impossible dream:

> We envision a collaborative public mental health system that promotes independence, self-determination, and recovery through individual, family, advocate, and community participation. With effective treatment, knowledge and support, Montanans with mental disorders will achieve education, meaningful work, satisfying family relationships and friendships, and participate in the community.

The challenge before us is to refocus on this vision, but do so with fewer resources and more creative and collaborative efforts. We cannot continue to operate the mental health system as is, and we cannot give up the goal of helping people recover from their mental illnesses. We must examine all the ways our system creates and fosters dependencies, without removing access to assistance when people really need it. We must ask whether our system offers incentives for people to pursue wellness and recovery or to remain symptomatic and ill. We must remember that while a person's illness may be chronic and life long, their level of functioning and quality of life can improve.

In short, in this difficult time of tight budgets, we must focus on what can be done rather than on what we can no longer do.

How to Reach Us

The Ombudsman Office is open from 8 a.m. to 5 p.m. Monday through Friday.
You may leave a voice message anytime.
Toll Free: **1-888-444-9669** FAX: **(406) 444-3543**
EMAIL: **badee@state.mt.us**

Why Have an Ombudsman?

The term ombudsman comes from a Swedish word meaning agent or representative. The first ombudsman was appointed by the Swedish Parliament in 1809 to protect the individual from the excesses of bureaucracy. The three essential characteristics of an Ombudsman are **independence**, **impartiality**, and **confidentiality**.

The public derives the following benefits from an Ombudsman Office:

1. The Ombudsman equalizes the power of the citizen with that of the administrative agency.
2. A third party objectively and impartially reviews the person's complaint or concern.
3. The individual does not have any direct cost associated with the investigation and evaluation of a concern.
4. If requested or required, the individual receives assistance from the Ombudsman in resolving a problem.

The Ombudsman may bring about changes only by recommendation, persuasion, or publicity. Strictly speaking, the Ombudsman is not an advocate who "takes on" the system on behalf of the consumer, but rather a knowledgeable person who investigates and evaluates concerns brought by citizens. The Ombudsman does not replace, but rather supplements, traditional means available to an individual for problem resolution.

The 56th Montana Legislature created the Mental Health Ombudsman in 1999 at the same time it terminated the managed care contract for the public mental health system. When former Governor Racicot appointed the Ombudsman, he requested regular communication from the Ombudsman about trends and issues in the mental health system. The Mental Health Ombudsman also provides this information to Legislative Committees and to policy makers in the Department of Public Health and Human Services.

Our Mandate

"The Ombudsman shall represent the interests of individuals with regard to the need for public mental health services, including individuals in transition from public to private services." 2-15-210 (3), MCA

Selected Cases

970

A nineteen year old applied as an adult and received a denial letter from the Mental Health Services Plan (MHSP) because First Health, Inc did not find her clinically eligible. After her CHIP coverage ended, mental health services were provided to her by the mental health center, but she was not told she would be financially responsible for them. This individual received a bill for over $3,000 because both she and the mental health center had presumed she was covered first by CHIP and then by MHSP.

First Health, Inc denied the clinical eligibility based on inadequate documentation from the evaluating mental health center therapist about the severity of the disability. The denial was not appealed within thirty days. When it was appealed, the denial was upheld since it was untimely, even though the reviewer agreed the person probably was clinically eligible. The youth was not able to pay the bill, and her parent did not agree to be financially responsible. Eventually, the mental health center accepted responsibility for the problem and wrote off the bill.

972

The parents of an adult called the police when their son with a history of mental illness came to their home drunk and threatened to kill himself. He also attempted to set their house on fire. The man was arrested and taken to jail. He received psychiatric medication there but did not have a psychiatric evaluation. When they called the police his parents had expected him to go to a psychiatric hospital for treatment . Now, they wanted information about how to get their son out of jail and how to get him treatment for his co-occurring disorders of substance abuse and mental illness. Eventually, the person was released from jail, but he did not agree to treatment. The Ombudsman office recommends civil commitment in this situation.

1012

An adult was hospitalized because she was believed to be "a danger to herself". Her inpatient stay was covered because she received presumptive eligibility for the Mental Health Services Plan (MHSP) when she was admitted (1999). Shortly afterward, she lost eligibility because she did not qualify financially for the program, and did not have a covered diagnosis. However, she was discharged from the hospital on a community commitment and was court ordered to continue treatment. Without MHSP coverage her physician bill climbed to $2000. However, she did not understand she had no coverage because the bill each month said, "insurance submitted". The individual cannot afford to pay this bill. The unpaid claim is over 365 days old and retroactive eligibility is not an option. The physician's office accepts no responsibility for the misleading bills, saying that it is standard for a bill to say "insurance submitted", even when the individual is expected to pay it. The Ombudsman recommends the State cover court ordered treatment if there is no other insurance.

1032

An adult with schizophrenia has Social Security Disability Income (SSDI) and qualifies for the Mental Health Services Plan, except when he receives the SSDI cost of living increase from the federal government. This increase puts his income slightly over the eligibility limit of 150% of the federal poverty level (FPL) for a few months until April 1. The person cannot purchase psychiatric medication without the Mental Health Services Plan, and the state has not changed its policy to disregard the SSDI cost of living increase if it puts an individual over financial eligibility for less than twelve months. The Ombudsman office recommends this policy change to accommodate the few individuals who annually lose MHSP eligibility for a few months.

1042

An adult with serious mental illness was picked up on an emergency detention and taken to a community hospital. The county attorney petitioned for a civil commitment hearing, and the individual was assigned a public defender. The person's attorney advised him of his right to remain silent when interviewed by the professional person and of his right to refuse medication. The attorney also moved to not allow testimony from the person's treating physician at the hospital. After the person spent ten days in the hospital, the county attorney dropped the case due to lack of supporting evidence. The person returned to his community in "fragile" condition, and the county was ordered to pay the cost of ten days of hospitalization. The public defender believes he carried out the instructions of the Supreme Court as stipulated "In the matter of KGF". The Ombudsman office recommends legislation clarifying the responsibility of the public defender in civil commitment.

1115

An adult who sees a physician at the community health clinic was referred to the mental health center for a psychiatric evaluation because the psychotropic medication he may need for his mental illness might interact adversely with his other medications. At the time, the man was not taking psychotropic medication, and the symptoms of his mental illness were acute. The mental health center informed the man he would have to see a therapist before he could have an appointment with the psychiatrist, scheduled for six weeks later. With assistance from the Ombudsman, the man saw the therapist in two days. The psychiatrist was willing to consult with the person's physician at the clinic who prescribed a medication trial until the psychiatrist could see him.

The Ombudsman office supports the Mental Health Services Bureau's new rule that a mental health center is not allowed to condition access to one of its services upon the receipt of another. The Department adopted this rule on 3/31/02, and added "unless continuity and quality of care require that services be provided."

Comments about the Trends in Issues Reported

The people who contact the Office of the Mental Health Ombudsman are a self-selected group. Most people tell us they were referred to the Ombudsman by someone else who tried to help them, so we are rarely the first call a person makes. The number of contacts our office receives each year is a small percentage of those in need of public mental health services. Nonetheless,the Ombudsman office believes a trend in issues reported over a three year period reflects what is happening in the public mental health system in a general way.

The Ombudsman office saw a decrease in calls about "Access To Care" issues. One reason may be improvement in state processes leading to eligibility determination and authorization of services. At the same time, an increase in concerns about services not covered and medication reflects recent changes in state policy. This year we heard fewer complaints but received more concerns about legal issues. We also received more requests for information about treatment. The Ombudsman office discusses trends with the Mental Health Services Bureau at regularly scheduled meetings.

Issues Reported to the Office Of the Mental Health Ombudsman

ISSUE	2002	2001	2000
Access to Care	**38%**	**40%**	**50%**
Child &Family Services	4%	4%	2%
Commitment	4%	5%	4%
Complaint	**12%**	**16%**	**11%**
Criminal Justice	9%	9%	5%
Discrimination/ADA	2%	2%	1%
Employment	1%	1%	0
Financial	**5%**	**6%**	**10%**
Housing	2%	1%	1%
Legal	**6%**	**1%**	**2%**
Other	**2%**	**6%**	**8%**
Patient Rights	3%	2%	0
Provider Concerns	3%	1%	1%
Social Security	3%	2%	1%
Treatment	**5%**	**2%**	**1%**
Unknown	0%	1%	2%

ACCESS to CARE ISSUE SUBTYPES

ISSUE SUBTYPE	2002	2001	2000
Authorization of services	3%	3%	4%
Availability of services	**3%**	**6%**	**6%**
Mental Illness/Developmental Disability	2%	2%	2%
Mental Illness/Substance Abuse	2%	1%	0
Enrollment Cap	1%	2%	1%
Insurance Inadequate/Parity	3%	4%	1%
Medication	4%	2%	5%
Application Process	**3%**	**5%**	**6%**
Clinical Eligibility	2%	1%	1%
Financial Eligibility	**3%**	**5%**	**8%**
Application Other	1%	0%	3%
Psychiatrist	3%	1%	3%
School	3%	1%	2%
Services Not Covered	**5%**	**3%**	**0%**
Transition: Child to Adult	0	0	1%
Transportation	1%	4%	1%

3000 copies of this public document were published at an estimated cost of 30 cents per copy, for a total cost of $897.50 which includes $247.50 for design and layout and $650 for distribution.

This publication was produced with the assistance of the Corporate Publishing Team of Blue Cross and Blue Shield of Montana.

Who We Are

Bonnie Adee, Mental Health Ombudsman

Bonnie was appointed to a four year term as Mental Health Ombudsman in 1999 by former Governor Marc Racicot. She has two Master's Degrees, one in education and one in health care administration. For fourteen years, Bonnie was director of Helena's hospice program. In 1994 she became Director of Behavioral Health Services for St. Peter's Hospital in Helena. Currently, Bonnie serves as a member of a Juvenile Justice Council. Her two grown children are away at school.

Brian Garrity, Program Specialist

Brian joined the staff in October, 1999, and works half-time. In recent years, Brian has been a member of the Board of Directors of the Mental Health Association of Montana, vice-chair of the Mental Health Oversight Advisory Council for the Addictive and Mental Disorders Division, and a member of the Co-occurring Disorder Task Force and Work Group for the Addictive and Mental Disorders Division. Brian has been an active advocate for people with mental illness, a role enhanced by his own open history and perspective as an individual with mental illness.

Resources

KEN - Knowledge Exchange Network
http://www.mentalhealth.org
National Mental Health Consumers' Self-Help Clearinghouse
http://www.mhselfhelp.org
PLUK - Parents, Let's Unite for Kids
http://www.pluk.org
Surgeon General, Virtual Office of the
http://www.surgeongeneral.gov
MHAM - Mental Health Assn of Montana
http://www.mhamontana.org
NAMI - The Nation's Voice on Mental Illness
http://www.nami.org
Bazelon Center for Mental Health Law
http://www.bazelon.org
IAPSRS - Int'l Assn of Psychosocial Rehabilitation Services
http://www.iapsrs.org
Moe Armstrong and Peer Educators
http://209.58.132.78/moe